

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ERFINDERGEMEINSCHAFT UROPEP  
GbR,

*Plaintiff,*

v.

ELI LILLY AND COMPANY,

*Defendant.*

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Case No. 2:15-CV-1202-WCB

**AMENDED JUDGMENT**

Pursuant to Rule 58 of the Federal Rules of Civil Procedure, the Court enters this amended judgment in the above-captioned matter.

By its verdict, the jury found defendant Eli Lilly & Co. (“Lilly”) liable for infringement of U.S. Patent No. 8,791,124, owned by plaintiff Erfindergemeinschaft UroPep GbR (“UroPep”). The jury further found that Lilly failed to prove the patent invalid on grounds of anticipation, obviousness, lack of adequate written description, and lack of enablement. For damages, the jury found that UroPep was entitled to receive \$20,000,000 from Lilly.

Following the entry of the judgment in this case, UroPep moved for an award of ongoing royalties. For reasons set forth in an order entered today, the Court has concluded that UroPep is entitled to an award of ongoing royalties in the amount of 5.86 percent of all infringing sales of Cialis during the period between April 17, 2017, and July 9, 2017, when the ’124 patent expired. The determination of the precise monetary value of that award is left to the parties to determine after the volume of sales for that period is ascertained.

UroPep has also moved, post-trial, for an award of attorney fees under 35 U.S.C. § 285. For reasons set forth in an opinion entered today, the Court has determined that UroPep is not entitled to an award of attorney fees in this case.

UroPep has also moved for a bill of costs. In a memorandum opinion and order entered today, the Court has determined that UroPep is entitled to an award of the uncontested costs in the amount of \$100,485.08, but is not entitled to an additional award of the contested costs in the amount of \$106,831.63.

The Court rules that UroPep is entitled to prejudgment interest and postjudgment interest. The Court accepts UroPep's unchallenged estimate of \$930,100 as the amount of prejudgment interest that is due on the jury's award of damages.

It is therefore ordered and adjudged as follows:

1. Final judgment is entered on the verdict in favor of UroPep and against Lilly.
2. Lilly is ordered to pay UroPep damages in the amount of \$20,000,000.
3. Lilly is ordered to pay UroPep prejudgment interest on the award of damages in the amount of \$930,100, covering the period up to May 18, 2017, the date of the initial judgment in this case.
4. Lilly is ordered to pay UroPep postjudgment interest on the jury's award of damages in the amount determined by the formula set forth in 28 U.S.C. § 1961, for the period beginning on May 19, 2017.
5. Lilly is ordered to pay UroPep an ongoing royalty for the period April 17, 2017, through July 9, 2017, in the amount of 5.86 percent of all Cialis five milligram sales for the treatment of BPH or for the treatment of BPH plus erectile dysfunction during the period between April 17, 2017, and July 9, 2017.

6. Lilly is ordered to pay UroPep prejudgment interest on the ongoing royalty award for the period between April 17, 2017, and the date of this amended judgment, July 18, 2017. That award of prejudgment interest shall be calculated in the same manner as the prejudgment interest for the award of damages.


7. Lilly is ordered to pay UroPep postjudgment interest on the ongoing royalty award in the amount determined by the formula set forth in 28 U.S.C. § 1961, for the period beginning on July 19, 2017.

8. Lilly is ordered to pay UroPep its chargeable costs under 28 U.S.C. § 1920 in the amount of \$100,485.08.

9. All other requests for relief set forth in the plaintiff's complaint are denied.

IT IS SO ORDERED.

SIGNED this 18th day of July, 2017.

A handwritten signature in cursive script, reading "William C. Bryson", is written over a horizontal line.

WILLIAM C. BRYSON  
UNITED STATES CIRCUIT JUDGE